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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/433,161	11/03/1999	GEORGE FATTMAN	CV-0277A	2179

7590 10/27/2003

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EXAMINER

WYROZEBSKI LEE, KATARZYNA I

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/433,161	Applicant(s) FATTMAN, GEORGE	
	Examiner Katarzyna Wyrozebski Lee	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 16 and 20 is/are rejected.
- 7) ☒ Claim(s) 2-15, 17-19 and 21-23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>0703</u> . | 6) <input type="checkbox"/> Other: |

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In the request for continuing prosecution the applicants have amended the independent claims and incorporated polyvinylcyclohexane back into the claims. Although no prior art was during the updated search, which would teach all the required components of the prior, the new matter rejection has not been overcome.

In the original presentation the claims read following:

~~1. A pressure sensitive hydrocolloid adhesive for medical use comprising the following composition by percentage weight:~~

- a) from about 2% to about 10% ethylene propylene rubber
- b) from about 8.5% to about 16% styrenic block copolymer
- c) from about 24% to about 33% polyvinylcyclohexane tackifying resin having a softening point below about 37°C
- d) from about up to .5% anti-oxidant
- e) from about 15% to about 35% NaCMC (Low DS)
- f) from about 5% to about 20% pectin
- g) from about 0% to about 6% tackifier with low softening point
- h) from about 3% to about 12% plasticizer
- i) from 0% to about 25% NaCMC (high DS)
- j) from 0% to about 6% powdered cellulose

wherein the probe tack force in grams is in the range of 300-750, saline absorbency is in the range of about 500-900 g/m²/d, and tensile strength is in the range of about 500-1500 g/cm².

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The polyvinylcyclohexane was utilized in amounts of 24-33 wt %. Newly amended claims read following:

--1. (Three Times Amended) A pressure sensitive hydrocolloid adhesive for medical use comprising the following composition by percentage weight:

- a) from about 2% to about 10% ethylene propylene rubber
- b) from about 8.5% to about 16% styrenic block copolymer
- c) from about 24% to about 33% tackifying
- d) from 0% up to .5% anti-oxidant
- e) from about 15% to about 35% NaCMC (Low DS)
- f) from about 5% to about 20% pectin
- g) from 0% to about 6% tackifier with softening point below about 37°C comprising

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polyvinylcyclohexane
h) from about 0% to about 10% plasticizer
i) from 0% to about 25% NaCMC (high DS)
j) from 0% to about 5% powdered cellulose
wherein the probe tack force in grams is in the range of 400-750, saline absorbency is in the range of about 500-5000 g/m², and tensile strength is in the range of about 500-3500 g/cm².

This time the applicants have changed the amounts of the polyvinylcyclohexane tackifying resins. In fact in the new claims polyvinylcyclohexane does not have to be utilized since its lower limit is zero. The applicants have no support for such change.

In addition the applicants have amended independent claims from what previously was 0-6% of tackifier with low softening point to a tackifier, which encompasses all tackifiers even those having high softening point.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 16 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Please see the comments above.


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An ID submitted on 7/15/2003 discloses US 4,231,369 to Sorensen. This prior art will be considered since it is one of the disclosures cited by the examiner during previous prosecution of the application. There is no need to repeat it.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katarzyna Wyrozebski Lee whose telephone number is (703) 306-5875. The examiner can normally be reached on Mon-Thurs 6:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Katarzyna Wyrozebski Lee
Primary Examiner
Art Unit 1714

October 22, 2003